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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,177	10/26/2000	Martin McCreesh	P66032US0	4347
136	7590	06/18/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			TIV, BACKHEAN	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/696,177

Applicant(s)

MCCREESH ET AL.

Examiner

Backhean Tiv

Art Unit

2151

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 1, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2151

***Detailed Action***

Claims 1-23 are pending in this office action.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 1/11/01, paper No.3, has been considered.

***Specification***

The disclosure is objected to because of the following informalities: Page 10, line 7, the word "authorised", should be changed to authorized.

Appropriate correction is required.

***Claim Objections***

Claim 1, 12,13 are objected to because of the following informalities:

As per claim 1, line 1, recites "utility comprising", there should be a colon after comprising, to read "utility comprising:", to distinguish between the preamble and the claim language.

As per claim 12, line 25, recites "authorised", the examiner will assume the applicant means "authorized".

As per claim 13, line 29, recites "mutex, an the", the an should be and.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Regarding claim 12, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claims 13-14 are rejected based on its dependency on claim 12.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,11,12,19, 20,23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,675,510 issued to Coffey et al.(Coffey).

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As per claim 1, Coffey teaches computer usage monitoring utility comprising means for operating as a background application transparently to a user to capture usage data indicating usage of the computer(col.5, Line 6-9), wherein the utility comprises means for automatically determining a productivity classification for each used application identified in the usage data(col.9,Line 22-45,col.8,Line 16-30; the table in col.8 shows the productivity classification for each application).

As per claim 2, a computer usage monitoring utility as claimed in claim 1, wherein the utility comprises means for recording an event for each application used by a user and for applying a productivity classification for each event (col.8, Line 16-67; the second table shows the event for each classification and their productivity classification).

As per claim 11, a computer usage monitoring utility as claimed in claim 1, wherein the utility comprises means for capturing an active URL if the active application is a browser(col.2,Line 35-45).

As per claim 12, a computer usage monitoring utility as claimed in claim 1, wherein the utility comprises an authorized stop program for closing the utility for purposes such as upgrade(col.3,Line 6-16).

As per claim 19, a computer usage monitoring utility as claimed in claim 1, wherein the utility comprises a live transfer mechanism for automatic transfer of event records to a server in real time(col.5, Line 26-31; examiner interprets the central processing station as the server).

As per claim 20, a computer usage monitoring utility as claimed in claim 19, wherein the utility further comprises a triggered event mechanism comprising means for triggering an alert message if alert usage conditions are met(col.5, Line 38-44; the identification of the logged event is interpreted as a triggered event).

As per claim 23, a computer program product comprising software code portions for providing a utility as claimed in any preceding claim when executing on a digital computer(col.1,Line 36-38).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,7,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 5,949,415 issued to Lin et al.(Lin) in further view of US Patent 6,065,138 issued to Gould et al.(Gould).

Coffey teaches all the limitations of claim 1, however does not teach as per claim 5, a computer usage monitoring utility as claimed in claim 1,

1                wherein the utility comprises means for checking for an active window at  
2                periodic callback intervals, and for marking an idle indicator if user activity is  
3                below a threshold.

4                Lin teaches the utility comprises means for checking for an active window at  
5                periodic callback intervals(col.7,Line 21-37).

6                Therefore it would have been obvious at the time of the invention to modify the  
7                system of Coffey to add a comprises means for checking for an active window at  
8                periodic callback intervals as taught by Lin in order to track the relationships between  
9                parent and child tasks(col.2,Line 21-22).

10              Coffey in view of Lin, however does not teach marking an idle indicator if user  
11              activity is below a threshold.

12              Gould teaches marking an idle indicator if user activity is below a threshold(col.1  
13              Lime 67-col.2,Line2).

14              Therefore it would have been obvious at the time of the invention to modify the  
15              system of Coffey in view of Lin to add marking an idle indicator if user activity is below a  
16              threshold as taught by Gould in order to monitor a user's input activity level (col.1,Line  
17              50).

18              As per claim 6, a computer usage monitoring utility as claimed in claim 5,  
19              wherein the utility comprises means for generating an event record at a callback interval  
20              when either a frame time period expires or when an active application changes,  
21              whichever is earlier(Lin, col.7,Line 21-23).

1           As per claim 7, a computer usage monitoring utility as claimed in claim 5,  
2 wherein the utility comprises means for determining usage data according to a captured  
3 number of actions of user input devices such as a keyboard and a mouse(Gould,  
4 col.3,Line 59-61,col.9,Line 32-39).

5           As per claim 23, a computer program product comprising software code portions  
6 for providing a utility as claimed in any preceding claim when executing on a digital  
7 computer(Coffey, col.1,Line 36-38).

8  
9           Claims 8,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US  
10 Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 5,949,415 issued  
11 to Lin et al.(Lin) in further view of US Patent 6,065,138 issued to Gould et al.(Gould) in  
12 further view of US Patent 5,717,604 issued to Wiggins.

13  
14          Coffey in view of Lin in further view of Gould teaches all the limitations of claim 5  
15 and wherein the utility comprises means for incrementing an idle count at periodic  
16 intervals if an input device is inactive(Gould, col.6, Line 40-51), however does not teach  
17 as per claim 8, a computer usage monitoring utility as claimed in claim 5, wherein the  
18 utility comprises for marking a window as idle when the count reaches a threshold.

19          Wiggins teaches wherein the utility comprises for marking a window as idle when  
20 the count reaches a threshold(col.2,Line 57-61).

21          Therefore it would have been obvious at the time of the invention to modify the  
22 system of Coffey in view of Lin in further view of Gould to add wherein the utility



1 comprises for marking a window as idle when the count reaches a threshold as taught  
2 by Wiggins in order to run a multi-taking operating system capable of having both active  
3 and inactive windows(col.2,Line 46-49).

4 As per claim 23, a computer program product comprising software code portions  
5 for providing a utility as claimed in any preceding claim when executing on a digital  
6 computer(Coffey, col.1,Line 36-38).

7  
8 Claims 9,10,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
9 US Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 5,949,415  
10 issued to Lin et al.(Lin) in further view of US Patent 6,065,138 issued to Gould et  
11 al.(Gould) in further view of US Patent 5,675,752 issued to Scott et al.(Scott).

12  
13 Coffey in view of Lin in further view of Gould teaches all the limitations of claim 5,  
14 however, does not teach as per claim 9, a computer usage monitoring utility as claimed  
15 in claim 5, wherein the utility comprises means for maintaining a temporary list of  
16 applications associated with windows previously identified, for retrieving an application  
17 name for a window if the window is present in the list, and for interrogating the operating  
18 system to determine the application name if the window is not in the list.

19 Scott teaches wherein the utility comprises means for maintaining a temporary  
20 list of applications associated with windows previously identified, for retrieving an  
21 application name for a window if the window is present in the list, and for interrogating

1 the operating system to determine the application name if the window is not in the  
2 list(col.9,Line64-col.10,Line 14).

3 Therefore it would have been obvious at the time of the invention to modify the  
4 system of Coffey in view of Lin in further view of Could to add wherein the utility  
5 comprises means for maintaining a temporary list of applications associated with  
6 windows previously identified, for retrieving an application name for a window if the  
7 window is present in the list, and for interrogating the operating system to determine the  
8 application name if the window is not in the list as taught by Scott in order to maintain  
9 and update interactive application software (col.1,Line 47-49).

10 As per claim 10, a computer usage monitoring utility as claimed in claim 9,  
11 wherein the utility comprises means for searching in an operating system for an opened  
12 process with a name indicating that it is an executable associated with a window(Scott,  
13 col. 2,Line 1-25).

14 As per claim 23, a computer program product comprising software code portions  
15 for providing a utility as claimed in any preceding claim when executing on a digital  
16 computer(Coffey, col.1,Line 36-38).

17  
18 Claims 13,14,23 are rejected under 35 U.S.C. 102(b) as being anticipated by US  
19 Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 6,212,573 issued  
20 to Lim et al.(Lim).

21

1 Coffey teaches all the limitations of claim 12, however does not teach as per  
2 claim 13, a computer usage monitoring utility as claimed in claim 12, wherein the stop  
3 program comprises means for creating a stop mutex, and the utility comprises means for  
4 closing down in an orderly manner if the mutex is opened.

5 Lim teaches wherein the stop program comprises means for creating a stop  
6 mutex, and the utility comprises means for closing down in an orderly manner if the  
7 mutex is opened (col. 8, Line 13-23 and col. 8, Line 30-34).

8 Therefore it would have been obvious at the time of the invention to modify the  
9 system of Coffey to include wherein the stop program comprises means for creating a  
10 stop mutex, and the utility comprises means for closing down in an orderly manner if the  
11 mutex is opened as taught by Lim in order to reduce computing overhead (col. 2, Line 63-  
12 65).

13 As per claim 14, a computer usage monitoring utility as claimed in claim 12,  
14 wherein the utility comprises a listener thread for listening for a mutex at periodic  
15 intervals (Lim, col. 8, Line 13-23 and col. 8, Line 30-34).

16 As per claim 23, a computer program product comprising software code portions  
17 for providing a utility as claimed in any preceding claim when executing on a digital  
18 computer (Coffey, col. 1, Line 36-38).

19  
20 Claims 15, 17, 18, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by  
21 US Patent 5,675,510 issued to Coffey et al. (Coffey) in view of US Patent 6,026,499  
22 issued to Shirakihara et al. (Shirakihara).

1  
2 Coffey teaches all the limitations of claim 1, however does not teach as per claim  
3 15, a computer usage monitoring utility as claimed in claim 1, wherein the utility  
4 comprises a protection program comprising means for executing in parallel to  
5 a main program implementing monitoring functions, both the main program  
6 and the protection program comprising means for determining if the other has  
7 stopped executing, and for re-starting it if it has stopped executing.

8 Shirakihara teaches wherein the utility comprises a protection program  
9 comprising means for executing in parallel to a main program implementing monitoring  
10 functions, both the main program and the protection program comprising means for  
11 determining if the other has stopped executing, and for re-starting it if it has stopped  
12 executing(col.3, Line 49-60).

13 Therefore it would have been obvious at the time of the invention to modify the  
14 system of Coffey to add a protection program comprising means for executing in parallel  
15 to a main program implementing monitoring functions, both the main program and the  
16 protection program comprising means for determining if the other has stopped  
17 executing, and for re-starting it if it has stopped executing as taught by Shirakihara in  
18 order to restart processes at distributed checkpoints in a client-server computer  
19 system(col.3, Line 30-32).

20 As per claim 17, a computer usage monitoring utility as claimed in claim 15,  
21 wherein the utility comprises a second protection program comprising means for  
22 reactivating the main program or the first protection program if either stops operating

1 and for terminating itself when it has finished execution(Shirakihara, col.3, Line 61-col.4,  
2 Line 7).

3 As per claim 18, a computer usage monitoring utility as claimed in claim 15,  
4 wherein the main program comprises means for writing an alert to a log file, if a  
5 protection program is terminated(Coffey, col.5, Line 15-23).

6 As per claim 23, a computer program product comprising software code portions  
7 for providing a utility as claimed in any preceding claim when executing on a digital  
8 computer(Coffey, col.1,Line 36-38).

9  
10 Claims 16,23 are rejected under 35 U.S.C. 102(b) as being anticipated by US  
11 Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 6,026,499 issued  
12 to Shirakihara et al.(Shirakihara) in further view of US Patent 6,212,573 issued to Lim et  
13 al.(Lim).

14  
15 Coffey in view of Shirakihara teaches all the limitations of claim 15, however  
16 does not teach as per claim 16, a computer usage monitoring utility as claimed in claim  
17 15, wherein both the main program and the protection program open a mutex and  
18 comprise means for detecting existence of the mutex of the other to determine if the  
19 other is executing.

20 Lim teaches wherein both the main program and the protection program open a  
21 mutex and comprise means for detecting existence of the mutex of the other to  
22 determine if the other is executing(col.8, Line 13-23).

1           Therefore it would have been obvious at the time of the invention to modify the  
2 system of Coffey in view of Shirakihara to add wherein both the main program and the  
3 protection program open a mutex and comprise means for detecting existence of the  
4 mutex of the other to determine if the other is executing as taught by Lim in order to  
5 reduce computing overhead(col.2,Line 63-65).

6           As per claim 23, a computer program product comprising software code portions  
7 for providing a utility as claimed in any preceding claim when executing on a digital  
8 computer(Coffey, col.1,Line 36-38).

9  
10           Claims 2,3,21,23 are rejected under 35 U.S.C. 103(a) as being unpatentable  
11 over US Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 5,799,304  
12 issued to Miller.

13  
14           Coffey teaches all the limitations of claim 20, however does not teach as per  
15 claim 21, a computer usage monitoring utility as claimed in claim 20, wherein an alert  
16 condition is set according to a user profile.

17           Miller teaches an alert condition is set according to a user profile(col.5, Line 43-  
18 54).

19           Therefore it would have been obvious at the time of the invention to modify the  
20 system of Coffey to add an alert condition being set according to a user profile as taught  
21 by Miller in order to recognize information that maybe of user-relevance(col.2, Line 20-  
22 23).

1           As per claim 3, a computer usage monitoring utility as claimed in claim 2,  
2   wherein the utility accesses a classification table in which a productivity classification is  
3   allocated to application groups, to applications, and to window text keywords(Miller,  
4   Fig.13).

5           As per claim 4, a computer usage monitoring utility as claimed in claim 3,  
6   wherein the utility comprises means for attempting to classify productivity in sequence  
7   according to application group, application, and keywords(Miller, Fig.13).

8           As per claim 23, a computer program product comprising software code portions  
9   for providing a utility as claimed in any preceding claim when executing on a digital  
10   computer(Coffey, col.1,Line 36-38).

11  
12  
13  
14           Claims 22,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over  
15   US Patent 5,675,510 issued to Coffey et al.(Coffey) in view of US Patent 5,713,027  
16   issued to Soejima et al.(Soejima).

17  
18           As per claim 22, Coffey teaches a computer usage monitoring utility comprising  
19   means for operating as a background application transparently to a user to capture  
20   usage data indicating usage of the computer, wherein:

21           the utility comprises means for recording usage data in discrete events, in which  
22   there is an event at expiry of a periodic frame interval or when a used application

1 changes, whichever is earlier(col.5, Line 15-23),and the utility comprises means for  
2 automatically determining a productivity classification for each event(col.9,Line 22-  
3 45,col.8,Line 16-30; the table in col.8 shows the productivity classification for each  
4 event).

5 However, Coffey does not teach the utility comprises means for activating a  
6 callback process at periodic intervals to check for either of said two conditions exist.

7 Soejima teaches means for activating a callback process at periodic intervals to  
8 check for either of said two conditions exist (col.3, lines 13-22; Soejima teaches periodic  
9 checking of information).

10 Therefore it would have been obvious at the time of the invention to modify the  
11 system of Coffey to include means for activating a callback process at periodic intervals  
12 to check for either of said two conditions exist in which Soejima teaches a means for  
13 periodic checking of information in order to facilitate the collection of service utilization  
14 information(col.2,lines 45-48).

15 As per claim 23, a computer program product comprising software code portions  
16 for providing a utility as claimed in any preceding claim when executing on a digital  
17 computer(Coffey, col.1,Line 36-38).

### 18 **Conclusion**

19  
20 The prior art made of record and not relied upon is considered pertinent to  
21 applicant's disclosure.

22 US Patent 5,237,684 issued to Record et al., Abstract , Fig.1,col.10,lines 38-67



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (703) 305-8879. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6/9/04

Andrew Caldwell  
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